STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES

Public Hearing Testimony

Judiciary Committee

April 1, 2011

H.B. No. 6638 (RAISED) AN ACT CONCERNING JUVENILE JUSTICE

The Department of Children and Families **supports** H.B. No. 6638, An Act Concerning Juvenile Justice. This bill makes a number of necessary changes to various DCF and juvenile matters statutes. This bill emanated from a working group that consisted of DCF, the Judicial Branch, the Chief Public Defender's Office, and juvenile justice advocates.

Among the numerous provisions of this that are necessary to fully implement the "Raise the Age" law, is language in sections 3, 4, 5, 6, 7, 8, 13, 16 and 17 of the bill which clarify that the Department of Children and Families' responsibility for committed delinquent children ends when the child attains the age of twenty. The Department believes that it is necessary to cap the maximum age of juvenile offenders as there will be challenges associated with mixing young adults with the adolescent population in facilities such as the Connecticut Juvenile Training School. CJTS is being renovated to segregate the younger and older populations to the greatest extent possible.

Providing services and supervision until the 20th birthday allows for individuals who are committed up until their 18th birthday (for delinquent acts committed through age 17) to remain committed for up to two years. The average length of commitment remains just under two years.

Information provided by the Campaign 4 Youth Justice indicates thirty-two other states use age 20 as the cut-off for services/supervision. Nine states end at 18 or 19 and only six states go to either 21, 22 or 24. Only three states go until the end of the full term of the dispositional order.

Two statutes currently exist to prosecute 14 - 17 year-olds for serious sexual offenses or for serious repeat juvenile offenses. These laws allow for blended (juvenile and adult) sentencing, and can be used for 16 or 17 year-olds for whom out-of-home services (incarceration) are needed past the 20th birthday.

S.B. No. 1164 (RAISED) AN ACT DELAYING IMPLEMENTATION OF PROVISION TO RAISE THE AGE OF JUVENILE COURT JURISDICTION FOR YOUTH SEVENTEEN YEARS OF AGE

The Department of Children and Families **opposes** S.B. No. 1164, An Act Concerning the Delaying Implementation of Provisions to Raise the Age of Juvenile Court Jurisdiction for Youth Seventeen Years of Age. This bill would delay the implementation of "Raise the Age" legislation for youth seventeen years of age until July 1, 2014.

As you know, the first phase of this law concerning sixteen year olds took effect on January 1, 2010 and the second phase, concerning seventeen year olds, is scheduled to take effect on July 1, 2012. To date, the fiscal impact upon the Department of Children and Families has been less than originally anticipated when the "Raise the Age" law was originally enacted. Funds to implement the second phase next year, are included in Governor Malloy's recommended budget.

The Department of Children and Families has made and continues to make careful plans for treating the older youth who will now be committed as delinquent without comprising the care of younger youth. We believe that Raise the Age as applied to 16 year olds has been a positive for the State of Connecticut and we are support the plan to include 17 year old youth as currently scheduled.

S.B. No. 1223 (RAISED) AN ACT CONCERNING THE RESPONSIBILITIES OF A PARENT OR GUARDIAN OF A CHILD CONVICTED AS DELINQUENT

The Department of Children and Families **opposes** S.B. No. 1223, An Act Concerning the Responsibilities of a Parent or Guardian of a Child Convicted as Delinquent. This bill would require the parents or guardian of a child who has been convicted as delinquent to attend any court hearing related to the delinquency, and make failure to attend such court hearing punishable as contempt of court. It would also require the parent or guardian to participate in and pay for the cost of care, treatment and rehabilitation for a child who has been convicted as delinquent.

While we share the concern regarding parents with little or no involvement with their children in the juvenile justice system, we believe that this legislation is too punitive in its approach and we should seek other means to promote family engagement.

S.B. No. 1225 (RAISED) AN ACT CONCERNING FALSE REPORTS OF CHILD ABUSE OR NEGLECT

The Department of Children and Families **opposes** S.B. No. 1225, An Act Concerning False Reports of Child Abuse or Neglect. This bill would require DCF to investigate a person who makes three separate reports to the Department that are not substantiated following a DCF investigation.

This proposal would have a significant chilling effect on reports made to the Department in good faith. Unfortunately, many individuals equate "unsubstantiated reports" with "false reports" which is an inappropriate misconception. An unsubstantiated finding does not mean that the report was false; it means that the allegations did not rise to the level of neglect or abuse as defined in the general statutes. Neither does an unsubstantiated finding mean that the family is not in need of services that can be provided through DCF. The majority of our reports of child abuse and neglect come from those professionals who are classified as "mandated reporters." The threshold for reporting, which is "reasonable cause to suspect or believe," is a deliberately low threshold established statutorily to err on the side of child safety.

Currently, twenty-eight states, including Connecticut have criminal penalties on the books to address false reporting. Subsection (c) of section 17a-101e of the General Statutes imposes a penalty of up to $2,000 or imprisonment of up to one year for false reporting of child abuse or neglect.

S.B. No. 1229 (RAISED) AN ACT CONCERNING EVIDENCE AND DETENTION IN JUVENILE MATTERS

The Department of Children and Families **offers the following comments regarding** S.B. No. 1229, An Act Concerning Evidence and Detention in Juvenile Matters. This bill provides that: (1) a child convicted as a delinquent and committed to the custody of the Commissioner of Children and Families shall receive credit for time spent in detention prior to the disposition of the offense; (2) any admission, confession or statement made by a child to a police officer or Juvenile Court official is inadmissible in any criminal prosecution of the child; and (3) the Commissioner of Children and Families may waive the requirement for a sixty-day evaluation of fitness and security and award passes for leave to children convicted as delinquent who have had such evaluation and subsequently transfer to a different facility.

We oppose Section 1 which purports to "reduce" a child's commitment by the number of days spent in pretrial detention. A delinquency commitment, unlike an adult criminal sentence, is not imposed for a set period of time. Section 46b-141 of the General Statutes states that that commitments are "indeterminate" (except that they shall not exceed 18 months or four years, depending on the offense and can be ordered for a minimum of 12 months for serious juvenile offenses). The time spent under commitment may be at CJTS, at a residential facility or group home, in foster care or with family members, or a combination of these options. The focus is treatment and rehabilitation when the professionals, in consultation with the youth's family, determine that the youth is ready for discharge, he or she is discharged regardless of how much time is technically left on the commitment. We believe the proposal is unnecessary and may have a negative impact a youth's treatment.

We support the intent of Section 3 of this bill which gives DCF the discretion to waive an evaluation at a subsequent placement if the youth has demonstrated sufficient responsibility and progress in treatment. However, we believe that the current language of the statute does not explicitly require a subsequent evaluation and we can simply amend our regulations accordingly.

H.B. No. 6312 (RAISED) AN ACT CONCERNING THE RIGHTS OF A PARENT OR GUARDIAN IN AN INVESTIGATION BY THE DEPARTMENT OF CHILDREN AND FAMILIES.

The Department of Children and Families **offers the following comments regarding** H.B. No. 6312, An Act Concerning the Rights of a Parent or Guardian in an Investigation by the Department of Children and Families. We appreciate and respect the need for the Department to ensure that parents, when involved in a child protective investigation, understand the process and their legal rights.

DCF does believe it's important that parents know their rights, and the Department has for many years, voluntarily provided a written "*A Parents Right to Know*" brochure at the start of every investigation. This brochure, which is currently available in twelve different languages, provides the information similar to that required by this bill and the following is the Questions and Answer section from the brochure.

We would request that the Committee amend the effective date of this legislation to October 1, 2011, to permit the Department with the necessary time to make the necessary modifications to this brochure. **We would also request that you add the term "face-to-face" before the word "contact" on line 44**, to clarify the Department's responsibility to provide this notice.

H.B. No. 6634 (RAISED) AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE JUVENILE JUSTICE SYSTEM AND ERASURE OF JUVENILE RECORDS

The Department of Children and Families **supports the portions of** H.B. No. 6634, An Act Concerning Child Welfare and Detention in the Juvenile Justice System and Erasure of Juvenile Records that relate to disproportionate minority contact in the juvenile justice system. Section 6 of this bill brings together the various state agency stakeholders and requires them to develop and implement a plan to address disproportionate minority contact in the juvenile justice system.

We would like to bring to the Committee's attention, that there is another bill, H.B. No. 6340, An Act Concerning the Placement of Children in Out-of-State Treatment Facilities, which also addresses the out-of-state placement of children issue that is raised in section 5 of this bill. The Department agrees with the intent of this provision is committed to working with interested parties in developing appropriate statutory language.

DCF **opposes the erasure portions of** H.B. No. 6634 as they apply to the Department, residential treatment centers and other non-Judicial entities. The bill as written, particularly lines 175 to 189 and 255 to 269, requires not only that the Judicial Department automatically erase delinquency and family with service needs requests four years after discharge from commitment or probation if the youth has turned 18 years old and has had no subsequent juvenile or adult offenses. While we certainly agree and support the concept of a fresh start for rehabilitated youth, the erasure requirement as it applies to DCF, to treatment institutions and to other non-Judicial entities will be, quite frankly, extremely difficult and expensive to accomplish.

As you know, delinquency and family with service needs case do not proceed in a vacuum. Besides DCF, numerous agencies and private provider may be involved in providing treatment and services to a youth and his or her family. Additionally, the delinquency or FWSN petition is frequently just one part of a family dynamic that may include child abuse and neglect, substance abuse and domestic violence. The bill appears to require all references whatsoever to a youth's delinquency or FWSN adjudication to be expunged from records. Not only will it be physically very difficult to locate and redact such records, but more importantly, it will result in "holes" in a family's history that help explain the dynamics and inform treatment. Juvenile records are confidential; the fact that a youth's adjudication is mentioned in a DCF record or that of a

treatment facility is not something that will publicly available and thus is highly unlikely to result in any harm to the youth once he or she reaches the age of 18. On the other hand, many documents that reference a youth's adjudication may be in the hands of third parties, such as relatives or victims, who cannot be reached by a court erasure order. If such third parties accidentally or deliberately release adjudication information and there is no existing official record, the youth will be unable to access official documentation to provide additional information to, say, an employer who questions the youth's rehabilitation.

H.B. No. 6636 (RAISED) AN ACT CONCERNING CHILDREN CONVICTED AS DELINQUENT WHO ARE COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF CHILDREN AND FAMILIES

The Department of Children and Families **supports** H.B. No. 6636, An Act Concerning Children Convicted as Delinquent Who are Committed to the Custody of the Commissioner of Children and Families.

Section 1 of the bill provides DCF with the discretion to waive the requirement for a sixty-day evaluation of fitness and security and award passes for leave to children convicted as delinquent who have had such evaluation and subsequently transfer to a different facility. DCF believes that there are circumstances where it is appropriate for a child to have this requirement waived prior to the sixty-day requirement, as it may be in the child's best interest to expedite his reentry back to the community.

Section 2 repeals a planning requirement in § 17a-3 regarding youth at the Connecticut Juvenile Training School that dates back to the school's origins in 1998. The plan at that time was for longer lengths of stay for the youth at CJTS. Currently, however, the average length of stay at CJTS is approximately 5 to 6 months. It should be noted that CJTS is part of the continuum of care and that the youth continue their treatment while in other residential programs and while in the community under Parole supervision. We do not believe that a minimum stay at CJTS is either necessary or appropriate. Please note that this same provision is also included in Substitute House Bill No. 6352, which has been favorably reported by both the Select Committee on Children and the Human Services Committee.

H.B. No. 6637 (RAISED) AN ACT CONCERNING DETERMINATIONS OF COMPETENCY IN JUVENILE AND YOUTH IN CRISIS MATTERS

The Department of Children and Families **offers the following comments regarding** H.B. No. 6637, An Act Concerning Determinations of Competency in Juvenile and Youth in Crisis Matters. This bill establishes a process for determining competency of a child or youth in a juvenile or youth in crisis matter and assisting a child or youth to attain competency in such matter.

Currently, pursuant to a Supreme Court decision, juveniles are subject to the same competency procedures set out in C.G.S. §54-56d as are applied to adult criminal defendants. Unfortunately, the adult procedures do not work well for younger children who are appearing before the Superior Court for Juvenile Matters. This bill creates a separate procedure to test for and restore

competency for children and youth appearing in juvenile matters that is age and developmentally appropriate. In addition, it provides additional protection for children and youth in that it gives the Juvenile Court additional jurisdiction to secure the intervention of DCF services for those families who require it and have not previously come to our attention.